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8
9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 Juan C. Ramirez, an individual,

12 } Case No.

13 Plaintiff,

14 } COMPLAINT

15 vs.

16 Professional Collection Consultants, a
17 corporation; Robert F. Henry, Esq., an
18 individual,

19 Defendants.

CV 14-1485

2014 FEB 27 PM 1:44
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT
LOS ANGELES
JAK (MANX)

20 COMES NOW PLAINTIFF JUAN C. RAMIREZ, and respectfully submits
21 his complaint as follows:

22 **JURISDICTION**

23 1. This is an action under the Fair Debt Collection Practices Act,
24 (hereinafter “FDCPA”), 15 U.S.C. § 1692a *et seq.*, which prohibits debt collectors
25 from engaging in abusive, deceptive, and unfair practices. Jurisdiction in this case
26 arises under 28 U.S.C. § 1331 and is founded upon 15 U.S.C. § 1692k which grants
27 the United States District Courts jurisdiction to hear this action without regard to the
28 amount in controversy.

FILED

THE PARTIES

2. Plaintiff Juan Ramirez (hereinafter "Plaintiff"), a natural person, is an
3 adult and a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3). Upon
4 information and belief, Defendant Professional Collection Consultants, Inc.
5 (hereinafter "Defendant PCC") is a California corporation doing business within this
6 judicial district that is engaged in the business of collecting debts in the State of
7 California.

8. Upon information and belief, Defendant PCC is a debt collector as
9 defined by the FDCPA, 15 U.S.C. § 1692a(6), because upon information and belief,
10 Defendant collects, or attempts to collect, debts incurred, or alleged to have been
11 incurred, for personal, family, or household purposes using the U.S. Mail, telephone
12 and internet.

13. Upon information and belief, Robert F. Henry (hereinafter "Defendant
14 Henry") is a licensed California attorney who is a salaried employee of Defendant
15 PCC.

16. Upon information and belief, Defendant Henry serves as in-house legal
17 counsel for Defendant PCC.

FACTUAL ALLEGATIONS

19. During the month of August 2012, Plaintiff received written
20 correspondence from Defendant Henry, dated August 24, 2012, in which Defendant
21 Henry identified himself as in-house legal counsel for Defendant PCC, and in which
22 Defendant Henry made a demand for monies alleged to be owed by Plaintiff to
23 Defendant PCC. Defendant Henry's letter further stated that, "This communication
24 is from a debt collector. This is an attempt to collect a debt. Any information
25 obtained will be used for that purpose."

26. On or about September 1, 2012, Plaintiff notified Defendant PCC in
27 writing that Defendant PCC is to have no further contact with Plaintiff except as
28 allowed under the FDCPA. Plaintiff further requested that Defendant PCC provide

1 him with validation of the alleged debt, and provided a return address to which such
2 validation should be sent. The above-referenced return address was 9167 Kester
3 Avenue, Panorama City, California.

4 8. During the month of September 2012, Plaintiff received written
5 correspondence on Defendant PCC's letterhead, dated September 5, 2012, and
6 addressed to Plaintiff at the Kester Avenue address that Plaintiff had previously
7 provided to Defendant PCC. Defendant PCC's letter made reference to Plaintiff's
8 letter of September 1, and enclosed documents which purported to fulfill Plaintiff's
9 prior request for validation of the alleged debt.

10 9. On or about September 9, 2012, Defendant PCC, through its counsel
11 Defendant Henry, filed a collection lawsuit against Plaintiff for the above-referenced
12 alleged debt in Los Angeles County Superior Court, case number 12E09106.

13 10. Despite having actual notice of Plaintiff's address, and despite having
14 corresponded with Plaintiff at Plaintiff's Kester Avenue address, on or about
15 February 28, 2013, Plaintiff was allegedly served with the summons and complaint
16 for the above-referenced state lawsuit by and through substituted service, at 14941
17 Roscoe Boulevard, Apartment 107, Panorama City, California.

18 11. Plaintiff in fact did not reside at the Roscoe Boulevard address at which
19 Defendant PCC's process server purportedly effected substituted service. Further,
20 Plaintiff had in fact never resided at the Roscoe Boulevard address, and had no
21 familial or other connection to that address, and had in fact never visited that
22 location.

23 12. On or about March 14, 2013, Defendant PCC, by and through its
24 attorney, Defendant Henry, caused the Proof of Service documents to be filed with
25 the Los Angeles Superior Court, and commenced litigation against Plaintiff, despite
26 plaintiff having no notice of the lawsuit.

27 //

28 //

1 13. Some time prior to April 8, 2013, Plaintiff became aware of Defendant
2 PCC's lawsuit quite by chance, when counsel for Plaintiff discovered it in the course
3 of representing Plaintiff on an unrelated matter.

4 14. After informing Plaintiff of Defendant PCC's lawsuit, Plaintiff
5 immediately retained current counsel to represent his interests in the state court
6 matter. Plaintiff's counsel was able file an answer with the court before a default
7 judgment could be obtained.

8 15. But for the chance discovery of Defendant PCC's lawsuit by Plaintiff's
9 counsel, it is likely that a default judgment would have been taken against Plaintiff,
10 and that Plaintiff's first actual notice of the lawsuit would have been in the form of
11 a wage garnishment notice.

12 16. California Code of Civil Procedure § 415.20 allows substituted service
13 by leaving a copy of the summons and complaint at the "person's dwelling house,
14 usual place of abode, usual place of business, or usual mailing address..."

15 17. Because Defendants PCC and Henry had actual knowledge of
16 Plaintiff's mailing address from having previously corresponded with him,
17 Defendants PCC and Henry knew that Plaintiff's "usual place of abode...or usual
18 mailing address," was the Kester Avenue address. In spite of having actual notice
19 of Plaintiff's "usual mailing address," Defendants elected to carry out improper
20 substituted service at an address at which Plaintiff had never lived. Defendants
21 further elected to cause the above-referenced Proof of Service documents to be filed
22 with the Los Angeles Superior Court.

23 18. In commencing litigation in an attempt to collect a consumer debt while
24 knowing that Plaintiff had not been served, Defendants PCC and Henry used false,
25 deceptive, and misleading means to collect a debt, in violation of 15 U.S.C § 1692e
26 and 15 U.S.C § 1692e(10).

27 //

28 //

19. Through this conduct, Defendant PCC, by and through Defendant Henry, used an unfair or unconscionable means to attempt to collect a debt, in violation of 15 U.S.C § 1692f.

20. As a result of the acts alleged above, Plaintiff suffered actual damages in the form of anxiety, embarrassment, humiliation, anger and frustration, which has negatively affected Plaintiff's concentration in performing his job in a demanding occupation and which has negatively impacted his personal relationships.

21. As a result of the acts alleged above, Plaintiff has suffered further actual damages in the form of attorneys' fees and costs incurred in the course of defending Plaintiff from the improperly brought state court debt collection action.

FIRST CLAIM FOR RELIEF

(For FDCPA Violations against all Defendants)

22. Plaintiff repeats and realleges and incorporates by reference all other paragraphs.

23. Defendants PCC and Henry violated the FDCPA. Defendants' violations include, but are not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered in Plaintiff's favor and against Defendants for the following:

- A. Actual damages to pursuant 15 U.S.C. § 1692k(a)(1);
 - B. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A);
 - C. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3); and
 - D. For such other and further relief as may be just and proper.

DATED: February 25, 2014


Mark T. McClenning
Attorney for Plaintiff
Juan Ramirez

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge John A. Kronstadt and the assigned Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

CV14-1485-JAK(MANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 27, 2014

Date

By C. Sawyer

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT
for the
Central District of California

Juan C. Ramirez, an individual,

Plaintiff(s)
v.
National Collection Consultants, a corporation;
Robert F. Henry, Esq., an individual,

Defendant(s)

CV14-1485 JAK (max)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (*Defendant's name and address*) Professional Collection Consultants, a corporation, 6700 S. Centinela Ave., 3rd floor, Culver City, CA 90230;
Robert F. Henry, Esq., an individual, 6700 S. Centinela Ave., 3rd floor, Culver City, CA 90230.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mark T. McClenning,
Attorney at Law
10808 1/2 Huston Street
North Hollywood, CA 91601

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT



Signature of Clerk or Deputy Clerk

Date: 02/26/2014

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>)		DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>)																																																																																																																							
Juan C. Ramirez, an individual		Professional Collection Consultants, a corporation; David F. Henry, Esq., an individual																																																																																																																							
(b) County of Residence of First Listed Plaintiff <u>Los Angeles</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant <u>Los Angeles</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>																																																																																																																							
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Mark T. McClenning, CA SBN 206177 10808 ½ Huston St. N. Hollywood, CA 91601 Telephone: (818) 392-8599		Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.																																																																																																																							
II. BASIS OF JURISDICTION (Place an X in one box only.)		III. CITIZENSHIP OF PRINCIPAL PARTIES -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)																																																																																																																							
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VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) Fair Debt Collection Practices Act, ("FDCPA"), 15 U.S.C. § 1692a et seq., which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.																																																																																																																									
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<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)																																																																																																																				
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	FORFEITURE/PENALTY	FORFEITURE/PENALTY	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																																																																																																																				
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 690 Other																																																																																																																					
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	LABOR																																																																																																																						
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act																																																																																																																						
899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 720 Labor/Mgmt. Relations																																																																																																																						
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 740 Railway Labor Act																																																																																																																						
		<input type="checkbox"/> 369 Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act																																																																																																																						
		<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 790 Other Labor Litigation																																																																																																																						
		<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 791 Employee Ret. Inc.																																																																																																																						
		<input type="checkbox"/> 448 Education	<input type="checkbox"/> Security Act																																																																																																																						

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VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court?	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
<p>If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.</p>			
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Riverside or San Bernardino	Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action?	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
<p>Then check the box below for the county in which the majority of DEFENDANTS reside.</p>			
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
	<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies:

- 2 or more answers in Column C
 only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the SOUTHERN DIVISION.
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

C.2. Is either of the following true? If so, check the one that applies:

- 2 or more answers in Column D
 only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the EASTERN DIVISION.
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the WESTERN DIVISION.
Enter "Western" in response to Question D below.

Question D: Initial Division?

INITIAL DIVISION IN CACD

Enter the initial division determined by Question A, B, or C above: →

Western

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**X. SIGNATURE OF ATTORNEY
 (OR SELF-REPRESENTED LITIGANT):** _____

DATE: 02/26/2014

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))